

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

NOTICE OF REMOVAL

COMES NOW, Defendant Century Surety Company, (“CSC”), by its undersigned counsel and pursuant to 28 U.S.C. §§ 1441 and 1446, and files this Notice of Removal removing this action from the Circuit Court of Shelby County, Tennessee to the United States District Court for the Western District of Tennessee, Western Division, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support of this Notice of Removal, Defendant shows to the Court as follows:

1. The above-entitled action was commenced in the Circuit Court of Shelby County, Tennessee on April 3, 2009 and is now pending in said Court in Cause No. CT-001644-09. Copies of all process and pleadings served upon CSC in this action are attached to this Notice of Removal collectively as "Exhibit A" and are incorporated herein by reference.

2. This Notice of Removal is timely filed within thirty days of receipt by service of the initial pleading, pursuant to 28 U.S.C. § 1446(b), as CSC was served with process no sooner than April 9, 2009 (*See Exhibit A*).

3. Pursuant to 28 U.S.C. 1446(d), all parties are being provided with written notice of removal and this Notice of Removal is being filed with the Clerk of the Circuit Court of Shelby County, Tennessee.

4. This action was commenced against Defendant in the Circuit Court for Shelby County, Tennessee by the Plaintiff, and is of a civil nature alleging a breach of contract claim seeking damages in the amount of One Hundred Thousand Four Hundred Seventy-eight and 00/100 Dollars (\$100,478.00), and a claim arising under the Tennessee Consumer Protection Act, Tennessee Code Annotated Section 47-18-101 *et seq.*

5. Venue properly rests in the Western Division of the United States District Court for the Western District of Tennessee, pursuant to 28 U.S.C. § 123(c)(2), since this action is being removed from the Circuit Court of Shelby County, Tennessee where it was originally filed.

6. The Complaint alleges that the Plaintiff is a Tennessee Corporation, and its principal place of business is the State of Tennessee. Pursuant to 28 U.S.C. § 1332(c)(1), Plaintiff is considered a citizen only of the State of Tennessee.

7. CSC is an Ohio corporation with its principal place of business in the State of Ohio. Pursuant to 28 U.S.C. § 1332(c)(1), CSC is considered a citizen only of the State of Ohio.

8. The controversy in this action is, at the time of filing the Complaint was, and at all times has been, a controversy between citizens of different states. There is therefore complete diversity of citizenship between Plaintiff and CSC.

9. In its Complaint the Plaintiffs demand a judgment in the amount of \$100,478.00. The amount in controversy therefore exceeds \$75,000, exclusive of interest and costs.

10. For the foregoing reasons, this Court has jurisdiction of the subject matter

pursuant to 28 U.S.C. § 1332 in that the action is a matter in controversy which exceeds the sum or value of Seventy-Five Thousand and 00/100 Dollars (\$75,000), exclusive of interests and costs, and the matter is between corporate citizens of different states.

WHEREFORE, PREMISES CONSIDERED Defendant requests that this action proceed in this Court as an action properly removed to it pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

Respectfully submitted,

/s/ Eric E. Hudson
Eric Hudson (#22851)
Van D. Turner, Jr. (#22603)
Butler, Snow, O'Mara, Stevens & Cannada, PLLC
6075 Poplar Avenue, Fifth Floor
Memphis, Tennessee 38119
Phone: 901-680-7338
Fax: 901-680-7201
Email: van.turner@butlersnow.com

Attorneys for Defendant Century Surety Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon Mark S. Norris and Tricia T. Olson, Brinkley Plaza, 80 Monroe Avenue, Suite 700, Memphis, Tennessee 38103-2467, via First Class Mail or the ECF filing system, this the 8th day of May, 2008.

/s/ Eric E. Hudson